

INDIA'S PRISONS: ORGANIZATION, TYPES, AND FUNCTIONS

Sidharth Kumar Pathak*

ABSTRACT

From the ancient-medieval period to the British time to the post-independence period, the evolution of India's jail administration is discussed, including the development of structure and the notion of prisoner care. Despite the fact that prisons are meant to be levelling institutions where the criteria that impact convicts' terms of detention are believed to be their criminal histories and their behaviour in jail, other factors play a role in many nations. However, colonial-era legislation in India clearly opposes the notion of jail as a leveller.

Keywords: Prisoners, Jails, Trial, Criminal Justice.

INTRODUCTION



Prisons are an important element of the criminal justice system that punishes a miscreant's deviant behaviour in our society. India's jails and prisoners' legislation is just one of those laws that go overlooked and neglected all the time. In today's context, they are not given the priority that they should be for reform. There is a perpetual gap and vacuum since there are no rigorous laws in place for persons who are incarcerated, who have the same right to live a life of dignity and fundamental respect as all other inhabitants of the country¹. There have been several occasions when inmates have been subjected to inhumane treatment and have been denied basic necessities such as appropriate sanitary conditions and adequate meals.

The Central Government grants the State Government various laws and regulations on prison rules in order to ensure effective administration and maintain the safety of inmates within the prison's four walls. Special orders made by state governments examine the imprisonment of convicts, including the land and property that has been linked to them. The management of prisons is specified in the State Lists as part of item 4 of the Constitution of India's seventh schedule. In accordance with the Prisoners Act of 1894 and the Prison Manuals that various

*BA-LLB, SECOND YEAR, CPJ COLLEGE OF HIGHER STUDIES & SCHOOL OF LAW, DELHI.

¹ "Prisons in India: Types and Functions" (*Latest Laws*) <<https://www.latestlaws.com/articles/prisons-in-india-types-and-functions/>> accessed January 22, 2022

states would have independently produced, the process of administration and management of prisons falls under the jurisdiction of the state. Also with the help of the central government states keep improving prison security, repairing and renovating old prisons, improving healthcare facilities, developing borstal schools, giving helpful facilities for women offenders, providing vocational training, modernising prison industries, training prison personnel, and building high-security enclosures².

MEANING

Prison is something that can be termed as a type of accommodation that is only specially meant for individuals who have committed an offence and are undergoing trial for that particular offence. According to *The Prison Act, 1894*³ “Prison” refers to any jail or place used permanently or temporarily under the general or special orders of a State Government for the detention of prisoners, and includes all areas and buildings thereto, but does not include-

- (a) any place for the confinement of prisoners who are exclusively in the custody of the police;
- (b) every place specially appointed by the State Government under section 541 of the Code of Criminal Procedure, 1882; or
- (c) any place which has been declared.

TYPES OF JAIL⁴:

Sub Jails - These jails are considerably smaller and are located in a state's sub divisional territory. There are certain states that have established a bigger number of these types of jails and have a really organized prison system, despite the fact that it is on a lesser scale than other jails.

² “System of Prison, Its History and Types in India” (*Legal Service India - Law, Lawyers and Legal Resources*) <<https://www.legalserviceindia.com/legal/article-4501-system-of-prison-its-history-and-types-in-india.html>> accessed January 22, 2022

³ “Government of India Ministry of Law - Mha.gov.in” <http://mha.gov.in/sites/default/files/Prisons_act1894.pdf> accessed January 22, 2022

⁴ “National Crime Records Bureau- <https://ncrb.gov.in/>” <<https://ncrb.gov.in/sites/default/files/PSI-2019-27-08-2020.pdf>> accessed January 22, 2022

District Jails - They are used as the primary prisons in the states and the union territories where there is no proper availability of Central Jails. In several states/UTs, district jails (with a capacity of roughly 500 convicts) operate as the primary prisons. Uttar Pradesh has the most district prisons (62), followed by Madhya Pradesh (41), Bihar (31), and Maharashtra (31). Chandigarh, D & N Haveli, Daman & Diu, Delhi, Lakshadweep, (28) Goa and Puducherry have no District Jail as of 31st December 2019.

Central Jails - There are numerous requirements for being classified as a central jail, and they range from one state to the next. However, it has been seen as a pattern in India that people who commit crimes that are punishable by imprisonment for a lengthy period (more than two years) are even more frequently confined in Central Jails, which have a bigger capacity and usage than other jails. Additional services, such as rehabilitation, are available in these jails.

Women's Prisons - These are prisons that are dedicated to holding only female inmates. These jails might be found at sub-divisional, central, or district levels. India has a total of 20 women's jails, with a capacity of 5200 women and a 60 percent occupancy rate. Women in India are frequently detained in other prisons due to the low capacity of women's jails. Maharashtra has around 5 women's prisons, while Kerala and Tamil Nadu each have approximately 3 jails.

Borstal Schools - This is a sort of adolescent detention centre where kids and juveniles are incarcerated and housed. Borstal schools provide adequate care, welfare, and rehabilitation for juveniles and other young offenders. This is to guarantee that they are stored in a volatile and safe environment. Juveniles at these institutions get reformatory training, education, and moral influence, all of which contribute to and prevent crime rates.

Special Jails - These are the highest-security prisons, with particular facilities for the inmates. Prisoners of a specific class or classes are housed in these jails. Convicts who are incarcerated in special prisons have been convicted of terrorism, violent crimes, persistent criminals, significant violations of prison discipline, and are violent and confrontational against other inmates. India has a total of 43 special prisons. Kerala has the most special prisons, with 16 in total. Tamil Nadu, Gujarat, West Bengal, Kerala, Assam, Karnataka, and Maharashtra all have laws in place that allow female inmates to be held in a separate jail.

PRISON FUNCTIONS⁵

Social isolation and confinement - To remove a criminal from society because he has shown to be a threat to society's organisation, stability, and cohesiveness, and to maintain him out of circulation and safely confined so that his breaking of the law does not bother the man on the street's peace of mind.

Protection of Society - Safeguarding the community from criminals by identifying and stigmatising those who break the law so that others are warned.

Punishment - To inflict pain and suffering on an offender (i.e., punishment) for violating legal norms, so that criminals are worse off than underprivileged honest citizens; law-abiding individuals must be satisfied that law-breakers are punished and secured against the threat of reoffending, and people in society may be refrained from committing crimes.

Reformation - It entails changing the offender's values, motives, attitudes, and perceptions, as well as resocializing and reintegrating him into society.



THE RIGHTS OF THE PRISONERS IN INDIA

If a person is arrested, it does not entail that he is no longer a human being or that he is no longer a person; he cannot be denied his personal liberty. Confession by torture shows the legal system's failure, hence inmates are also entitled to certain human rights. This is created under Article 21 of the Indian Constitution, which protects personal liberty and hence outlaws all forms of inhumane, cruel, and humiliating treatment of anybody, whether an Indian or an immigrant. Provision 14 of the Indian Constitution, which enshrines the rights of all people and equal treatment under the law, would be invoked if this article is violated. In addition, the Prison Act of 1894 addresses a prisoner's rights. Any excessive treatment of a prisoner by the police would be met with the fury of the legislation and the courts. As a result, the Indian judiciary, particularly the Supreme Court, has become increasingly efficient and attentive in protecting prisoners' rights.

⁵ "What Are the 5 Basic Functions of Prisons?" (*PreserveArticles.com: Preserving Your Articles for Eternity* May 1, 2012) <<https://www.preservearticles.com/articles/what-are-the-5-basic-functions-of-prisons/28943>> accessed January 22, 2022

Right to Speedy Trial - This is one of a prisoner's most crucial fundamental rights, as stated in Article 21 of the Indian Constitution⁶. This component encompasses both social and public interests. The constitutional provision of a swift trial is a crucial precaution to avoid unjust and oppressive confinement before trial, to reduce the anxiety that comes with public accusation, and to reduce the risk that protracted delays would harm an accused's capacity to defend himself.

The right to a speedy trial is originally recognised in the Magna Carta, England's most important legal instrument. Though the constitutional notion of the right to a speedy trial has been there for over two and a half decades, the objective it seeks to attain is still a long way off. It is a notion that deals with the expeditious resolution of cases in order to make the judiciary more effective and to deliver justice as quickly as feasible. No one shall, according to Article 21⁷. When dealing with the bail petition in *Babu Singh v. State of UP*⁸, Judicial Krishna Iyer said, "Even in major instances, our justice system suffers from a slow motion syndrome, which is very against to the concept of a "fair trial," regardless of the end final judgement. Because the society as a whole is interested in the criminal being treated with dignity and eventually punished within a fair time frame, and the innocent being spared from the disproportionate anguish of criminal procedures, speedy justice is a component of social justice."

Case Law - In the case of *D.K. Basu v. State of West Bengal*⁹, the court ruled that torture in detention is a grave breach of human dignity and demeaning to the individual. Because the right to life and liberty is a fundamental human right, the court ruled that no one can be kept in jail without first being told of the reason for their detention and without being refused access to a lawyer.

⁶ "Article 21 in the Constitution of India 1949" <<https://indiankanoon.org/doc/1199182/>> accessed January 22, 2022

⁷ India legal S (*Constitutional right to Speedy trial*)

<<http://www.legalservicesindia.com/article/571/Constitutional-Right-to-Speedy-Trial.html#:~:text=Speedy%20trial%20is%20a%20fundamental,purpose%20of%20enforcing%20such%20right,>> accessed January 22, 2022

⁸ "Babu Singh and Ors vs the State of U.P on 31 January, 1978" <<https://indiankanoon.org/doc/1515744/>> accessed January 22, 2022

⁹ "Shri D.K. Basu,Ashok K. Johri vs State ... - Indiankanoon.org" <<https://indiankanoon.org/doc/501198/?type=print>> accessed January 22, 2022

The right to legal Aid - Human rights and personal liberty are useless if a person does not have enough legal assistance to ensure that they have access to justice in the event of a serious infringement of their rights. Legal Aid has evolved from a charitable service to a legal entitlement. Legal Aid promotes the idea that justice should be effectively administered and that it should be freely available and accessible. It should be ensured that everybody who seeks to enforce their legal rights has access to it¹⁰.

Case Law - *M.H.Hoskta v. the State of Maharashtra*¹¹ is the first case in which the right to free legal assistance was examined, with the conclusion that it is critical to educate the poor about their constitutional and statutory rights. It is also the state's obligation to offer legal services to the poorest members of society who cannot afford to pay the court's fees. This case also refers to how citizens' Fundamental Rights were infringed by the government's refusal to provide free legal assistance to the poor. There are also certain case laws discussed in relation to this case, which outlines the legal assistance services.

MAJOR PROBLEMS WITH THE INDIAN PRISON SYSTEM

Health and hygiene - Many prisons lack adequate medical facilities. As a result, the prisoners are neglected, and the majority of them go undiagnosed. The convicts' hygiene is likewise deplorable. It has been noted that attorneys defending inmates must apply for basic necessities. In Delhi, it was discovered that in the dead of winter, inmates were not given adequate clothing. In Indian jails, the most money is spent on food. During that year, West Bengal, Punjab, Madhya Pradesh, Uttar Pradesh, Bihar, and Delhi reported considerably greater medical spending, whereas Bihar, Karnataka, and West Bengal reported relatively higher vocational and educational spending. Tamil Nadu, Orissa, and Chattisgarh have reported considerably larger spending on prison-related social initiatives¹².

Custodial torture - Custodial torture is a type of torture that occurs when a person suspected of committing a crime is being held in the custody of law enforcement officers. Custodial

¹⁰ India legal S (*Right to free legal aid*) <<http://www.legalservicesindia.com/article/1176/Right-to-Free-Legal-Aid.html>> accessed January 22, 2022

¹¹ "Madhav Hayawadanrao Hoskot vs State of Maharashtra on 17 ..." <<https://indiankanoon.org/doc/513169/>> accessed January 22, 2022

¹² "Major Problems of Prison System in India" (*Times of India Blog* January 1, 2022) <<https://timesofindia.indiatimes.com/readersblog/shubham-kashyap/major-problems-of-prison-system-in-india-40079/>> accessed January 22, 2022

torture, according to the Supreme Court, is a flagrant breach of human dignity and humiliation that destroys, to a considerable part, human individuality. Prisoners are subjected to a lot of torture in their cells. Despite the fact that third-degree police torture is no longer permitted following the historic *D.K. Basu case*, there is still a high level of brutality in jails¹³.

Overcrowding of the prisons- Jail overcrowding has long been an issue in this nation, high occupancy levels in the middle of a pandemic can only spell disaster. The Supreme Court has intervened on several occasions to resolve this issue, but its most recent ruling requiring the interim release of eligible convicts takes on added importance in light of the raging pandemic's uncontrolled second surge. Last year, the Court issued such an injunction ahead of schedule — on March 23, 2020, the order was issued even before the nationwide lockdown. Across India, it was seen a total of 4,78,600 prisoners in different prisons but the maximum capacity of these prisons was just 4,03,700 which causes overcrowding which leads to a poor condition of living. It also results in the transmission of many communicable diseases¹⁴.

Poor Budget for Prison- In India, prison officials spent an average of US\$ 333 (INR 10 474) per offender per year in 2005, with funds going toward food, clothes, medical bills, vocational & educational programmes, welfare activities, and other items (National Crime Records Bureau (NCRB) 2005). In 2001, the average yearly operational cost per state inmate in the United States was \$ 22,650. (it also includes salaries of prison staff). In Indian jails, the most money is spent on food. During that year, West Bengal, Punjab, Madhya Pradesh, Uttar Pradesh, Bihar, and Delhi reported considerably greater medical spending, whereas Bihar, Karnataka, and West Bengal reported relatively higher vocational and educational spending¹⁵.

Lack of communication - In reality, jails are a place of punishment where offenders may rehabilitate and reintegrate into society. However, they get traumatised owing to a lack of access to the outside world or their family members. They are always afraid of not being

¹³ “Custodial Torture and Reforms in Police Administration” (*Legal Service India - Law, Lawyers and Legal Resources*) <<https://www.legalserviceindia.com/legal/article-3120-custodial-torture-and-reforms-in-police-administration.html>> accessed January 22, 2022

¹⁴ “Major Problems of Prison System in India” (*Times of India Blog* January 1, 2022) <<https://timesofindia.indiatimes.com/readersblog/shubham-kashyap/major-problems-of-prison-system-in-india-40079/>> accessed January 22, 2022

¹⁵ “Major Problems of Prison System in India” (*Times of India Blog* January 1, 2022) <<https://timesofindia.indiatimes.com/readersblog/shubham-kashyap/major-problems-of-prison-system-in-india-40079/>> accessed January 22, 2022

welcomed back into society or their families. This causes mental disease, and instead of rehabilitating, many of them become violent criminals.

Abuse of Prisoners - In India's jails, physical mistreatment of detainees by guards is a common occurrence. Some countries continue to allow corporal punishment including the use of leg irons, fetters, shackles, and chains on a regular basis. Unjustified beatings are a staple of jail life in many Indian prison systems. Women in Indian jails are particularly vulnerable to sexual assault while incarcerated. Male guards outnumbered female guards at numerous women's prisons across the world, particularly in the United States. Female convicts were even imprisoned alongside male detainees in several nations, with Haiti being the most extreme example. This puts them at risk of sexual assault and violence¹⁶.

Women and children - The number of female criminals is quite low. They encounter both physical and emotional challenges, such as a lack of sanitary facilities, prenatal care, and educational training. The women are also subjected to sexual assault, incarcerated rape, and physical violence. Correctional houses, rather than jails, are used to house children so that they might rehabilitate and return to their normal lives. They are, nevertheless, subjected to a great deal of abuse and psychological suffering.

CONCLUSION

The current jail system in our nation is a remnant of British dominance in our country. The management of prisons is an essential part of the criminal justice system. In different nations, prisons are referred to as 'Correctional Facilities,' 'Detention Centers,' 'Jails,' and 'Remand Centers,' among other terms. In the previous century, there was a paradigm shift in social attitudes regarding prisoners. With a shift in social perceptions regarding jail and convicts, the previous system of prison with a punitive mentality, in which inmates were forcefully imprisoned and denied a variety of freedoms as a kind of punishment, has altered. It is now referred to as a correctional or improvement institution, implying that the focus is on prisoner reform rather than punishment¹⁷.

¹⁶ "Prisons in India: Types and Functions" (*Latest Laws*) <<https://www.latestlaws.com/articles/prisons-in-india-types-and-functions/>> accessed January 22, 2022

¹⁷"National Crime Records Bureau- <https://ncrb.gov.in/>"

<https://ncrb.gov.in/sites/default/files/PSI-2019-27-08-2020.pdf>> accessed January 22, 2022

The jail population has doubled in recent decades, posing several obstacles to the prison administration, including prison security and safety, cleanliness concerns, overcrowding, and so on. Prisons are divided into three levels: Taluk level, District level, and Zonal/Range level, with Sub Jail, District Jail, and Central Jail being the jails at each level. From Sub Jail to Central Jail, facilities, available prison staff & authority vested in them, security, and convict comforts such as medical and educational services are all factors to consider, and rehabilitation all are improving with changing time¹⁸.



¹⁸ “Prisons in India: Types and Functions” (*Latest Laws*) <<https://www.latestlaws.com/articles/prisons-in-india-types-and-functions/>> accessed January 22, 2022